

House Bill 729

By: Representative Powell of the 32nd

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 14 of Title 9 of the Official Code of Georgia Annotated, relating to habeas corpus, so as to provide for habeas corpus hearings by video conference; to adjust certain procedures to account for habeas corpus hearings by video conference; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 14 of Title 9 of the Official Code of Georgia Annotated, relating to habeas corpus, is amended by revising Code Section 9-14-4, relating to petition for writ, verification, and to whom presented, as follows:

"9-14-4.

The petition for the writ of habeas corpus must be verified by the oath of the applicant or some other person in ~~his~~ the applicant's behalf. It may be presented to the judge of the superior court of the circuit in which the illegal detention exists who may order the party restrained of his or her liberty to be brought before ~~him~~ such judge physically from any county in ~~his~~ such judge's circuit or by video conference, or it may be presented to the judge of the probate court of the county, except in cases of capital felonies or in which a person is held for extradition under warrant of the Governor. When such applicant is brought before such judge by video conference, such judge shall have visual and audible contact with such applicant with such clarity as if such applicant were physically before such judge."

SECTION 2.

Said chapter is further amended by revising Code Section 9-14-5, relating to when writ is granted, as follows:

24 "9-14-5.
25 When upon examination of the petition for a writ of habeas corpus it appears to the judge
26 that the restraint of liberty is illegal, ~~he~~ such judge shall grant the writ, requiring the person
27 restraining the liberty of another or illegally detaining such person in his or her custody to
28 bring the person before ~~him~~ such judge at a time and place or manner to be specified in the
29 writ for the purpose of an examination into the cause of the detention."

30 **SECTION 3.**

31 Said chapter is further amended by revising Code Section 9-14-10, relating to respondent's
32 return to writ, when and where made, as follows:

33 "9-14-10.

34 The return of the party served with the writ shall be made at the time and place specified
35 by the court. Two days from the time of service shall be allowed for every 20 miles which
36 the party has to travel from the place of detention to the place appointed for the hearing,
37 or if such hearing is to be by video conference, then to the place of the return location as
38 designated by the judge. If service has not been made a sufficient time before the hearing
39 to cover the time allowed in this Code section to reach the place of hearing or return
40 location as designated by the judge, the return shall be made within the time so allowed
41 immediately after the service."

42 **SECTION 4.**

43 All laws and parts of laws in conflict with this Act are repealed.